

CONNECTICUT LEGAL RIGHTS PROJECT

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Statement in SUPPORT of H.B. 6276, An Act Concerning Competency to Stand Trial

Senator Coleman, Representative Fox, and distinguished members of the Judiciary Committee. Connecticut Legal Rights Project, Inc. **SUPPORTS H.B. 6276, An Act Concerning Competency to Stand Trial.**

The Connecticut Legal Rights Project, Inc. (hereafter "CLRP") is a non-profit legal services agency that provides individual and systemic legal services to indigent adults who have, or are perceived as having, psychiatric disabilities and who receive, or are eligible to receive, services from the Department of Mental Health and Addiction Services (hereafter "DMHAS"). CLRP maintains offices at all DMHAS operated inpatient and out-patient facilities in the state. Our offices are staffed by attorneys and paralegal advocates. This testimony is informed by CLRP's expertise in Connecticut's mental health system.

The purpose of H.B. 6276 is to permit consideration by the court of the least restrictive alternative placement for individuals hospitalized for mental health treatment to restore competence to stand trial. The 1998 landmark U.S. Supreme Court decision in L. C. v. Olmstead found that the unnecessary institutionalization of persons with disabilities constitutes discrimination prohibited by the ADA, and re-affirmed the right of these individuals to be integrated into the community and interact with persons without disabilities to the fullest extent possible.

Connecticut General Statutes 54-56d(i) requires courts to determine the "least restrictive placement appropriate and available to restore competency," when a court receives an evaluation report of a defendant's competence to stand trial that recommends that the defendant is not competent to stand trial but may be restored to competence to stand trial with treatment. The courts make this determination based on information

DMHAS provides about the least restrictive placement for all defendants who are recommended not competent to stand trial but restorable.

On average, DMHAS evaluates approximately 590 defendants per year for competence to stand trial, and makes recommendations of findings of not competent to stand trial in about 47% of them, with 40% of the total defendants evaluated being found not competent and restorable (237 persons per year, on average). Each year, on average, approximately 200 individuals are ordered placed in a DMHAS inpatient setting for restoration treatment. Approximately 15 defendants per year are ordered to DMHAS outpatient restoration in consideration of the least restrictive placement available and appropriate for the restoration effort.

However, for the 88% of incompetent defendants receiving restoration orders who are sent to inpatient treatment, there is no statutory provision authorizing them to be returned to the community for restoration treatment when circumstances warrant such a transition. It is possible for individuals to improve sufficiently in the hospital that they no longer require an inpatient level of care, but still not be restored to competence to stand trial, particularly in a complicated trial scenario. Yet, they can remain institutionalized unnecessarily at a cost of \$1,200 per day to the state.

H.B. 6276, if enacted, would allow the courts to consider situations such as these. Judges would be able to order that a defendant be transferred to outpatient restoration treatment in cases where the court finds that the individual is making progress toward attaining competency, and that inpatient placement is no longer the least restrictive placement appropriate and available to restore competency. The bill thus permits the court to make the same determinations about conditions of release as occurs during the initial consideration of outpatient restoration under Sec. 54-56d(i). The proposed language for this additional consideration is drawn from existing language in 54-56d(i).

In sum, Connecticut Legal Rights Project, Inc. supports the passage of H.B. 6276 because it would allow DMHAS to apply the principle of least restrictive placement to defendants who have been placed in inpatient treatment and are doing better clinically and making progress toward restoration of competence to stand trial.